



FEDERAL ELECTION COMMISSION

11 CFR Part 100

[NOTICE 2014-14]

Federal Office

AGENCY: Federal Election Commission.

ACTION: Notice of Disposition of Petition for Rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking (“Petition”) filed on August 28, 2014, by National Convention PBC. The Petition asks the Commission to amend 11 CFR 100.4 to revise the definition of “federal office” to include delegates to a constitutional convention. The Commission has decided not to initiate a rulemaking at this time. The Petition and other documents relating to this matter are available on the Commission’s website, <http://www.fec.gov/fosers/>, and in the Commission’s Public Records Office.

DATES: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Ms. Emma K. Lewis, Office of General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On August 28, 2014, the Commission received a Petition for Rulemaking from National Convention PBC regarding the Commission’s regulation defining “federal office,” 11 CFR 100.4. The regulation provides that “Federal office means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.” The Petition asks the Commission to amend 11 CFR 100.4 to add “a Delegate to a constitutional convention for proposing amendments to the Constitution of the United States.”

The Commission published a Notice of Availability seeking comment on the Petition on October 2, 2014. 79 FR 59459. The Commission received five comments in response to the NOA. Two comments, filed on behalf of a total of four organizations, opposed the Petition, primarily on the grounds that the regulatory change it seeks would be inconsistent with the applicable statutory definition of “federal office.” Three comments from individuals supported the Petition on the grounds that delegates to a constitutional convention should be bound by the campaign finance rules that apply to federal candidates (although one of these comments also objected to certain aspects of National Convention PBC’s proposal).

The Commission agrees with the commenters who opposed the Petition. The definition of “federal office” is specifically set by statute: “The term ‘Federal office’ means the office of the President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.” 52 U.S.C. 30101(3) (formerly 2 U.S.C. 431(3)). The Commission’s regulatory definition of “federal office” uses materially indistinguishable language, defining a federal office as “the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.” 11 CFR 100.4. The Petition and the commenters who supported it provide certain policy arguments in favor of including delegates to a constitutional convention within the scope of the regulation, but the statutory definition of “federal office” unambiguously omits such delegates. In situations such as this where the statute contains no relevant ambiguity, the Commission “must give effect to the unambiguously expressed intent of Congress.” Chevron U.S.A., Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 842-43 (1984).

The Commission therefore declines to commence a rulemaking to add delegates to a constitutional convention to the definition of “federal office” in 11 CFR 100.4.

On behalf of the Commission,

Dated: December 11, 2014.

Lee E. Goodman,

Chairman,

Federal Election Commission.

BILLING CODE: 6715-01-P

[FR Doc. 2014-29601 Filed 12/17/2014 at 8:45 am; Publication Date: 12/18/2014]